

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Appeal from the S.C. Adm. Law Court
16-ALJ-04-0550-AP

MAY 16 2017
SC Court of Appeals

The Honorable S. Phillip Lenski

Case No. 2017-000232

Jimmy D. Meggs Jr., 277400,

Appellant,

v.


South Carolina Department of Corrections,

Respondent,

NOTICE OF MOTION
FOR APPEALS BOND

I Jimmy D. Meggs Jr. do hereby give NOTICE that I intend to Petition the South Carolina Court of Appeals for a APPEALS BOND due to the unusual circumstances of the case at bar. I have given both served the Court and Respondent's Counsel of Record: S.C. Dept. of Corrections, Christina Catoe Bigelow, Esquire, P.O. Box 21787, Columbia, SC 29221-1787 by depositing the same in the United States Mail, Postage Prepaid on this:

This 11th Day of May 2017.


Jimmy D. Meggs Jr., 277400
TCI SA-227B
1578 Clarence Coker Hwy.
Turbeville, SC 29162

SENT TO:
S.C. Dept. of Corrections
The Honorable Christina C. Bigelow
P.O. Box 21787
Columbia, SC 29221-1787

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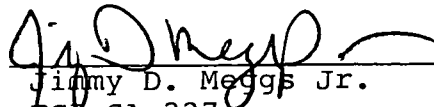
South Carolina Department of Corrections,

Respondent.

PROOF OF SERVICE

I Jimmy D. Meggs Jr. do certify that I have served my Notice and Motion for Petition for Appeals Bond along with a letter addressing some concerns to Respondent's Counsel of Record: South Carolina Department of Corrections, Mrs. Christina Catoe Bigelow, Esquire, Post Office Box 21787, Columbia, SC 29221-1787 by depositing the same in the United States Mail Postage Prepaid and addressed to the above named Respondent's Counsel of Record on this :

This 10th Day of May 2017.


Jimmy D. Meggs Jr.
TCI SA-227
1578 Clarence Coker Hwy.
Turbeville, SC 29162

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PETITION FOR
APPEALS BOND

Jimmy D. Meggs Jr., 277400
TCI SA-227B
1578 Clarence Coker Hwy
Turbeville, SC 29162
(APPELLANT PRO-SE)

S.C. Department of Corrections
Christina C. Bigelow, Esquire
P.O. Box 21787
Columbia, SC 29221-1787
(COUNSEL FOR RESPONDENT)

HISTORY

Appellant was arrested January 10 2000 in Florence County. On April 3 2000 (84 Days Later), Appellant was released on bond with the stipulation of Monitored House Arrest. The Appellant complied and maintained this Monitored House Arrest, and paid \$350.00 per month, 17 months, until his ultimate conviction and sentence on August 9 2001 (17 Months). The Appellant was sentenced to 20 years and was remanded to South Carolina Department of Corrections hereafter referenced as "SCDC".

Appellant timely filed his Notice of Appeal concerning his Direct Appeal. (August 19 2001). The Court of Appeals ultimately dismissed this appeal (2004-UP-460) citing Appellant Failed to Object and Appellant failed to lay a proper foundation ect. In 2006, The South Carolina Supreme Court ultimately dismissed this appeal and a timely PCR Application was filed. This First PCR was ultimately dismissed in December of 2007.

Appellant went on to file his timely Federal Habeas Corpus, Which the District Court upheld the Magistrates R & R and Appellant filed for and received a Certificate of Appealability (C.O.A.) and was allowed to file in the Fourth Circuit Court of Appeals in Richmond Virginia, The Court dismissed the Writ and Applicant filed in the United States Supreme Court, This action likewise was dismissed.

However, after all these "First Bite Appeals", Which all predated June 7 2013, were filed, heard and denied. Appellant went on to file other PCR actions based on evidence discovered after trial none save this action and the 2014-CP-21-2417 PCR action which is currently before the Florenc County Court of Common Pleas in a Conditional Order of Dsmissal were filed before the June 7 2013 Bill became Law.

On June 7 2013, The S.C. Legislature amended S.C. Code Ann § 24-13-40 to read : [In Every case in computing the time served by a prisoner, Full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under Monitored House Arrest (In Part).

Title 24 further enunciates that Good Time and Productive Duty Assignment Credits are to be computed or awarded on a Month by Month basis. Appellant timely filed his request to Classification asking "SCDC" to credit his 17 months that he had spent on House Arrest toward his sentence. SCDC Responded with "You need to obtain a Court Order indicating that the Court awards the 17 months. Specifically: [I Suggest you contact the Court to obtain a document specifically stating the time served on House Arrest is to be applied to your incarcerated time.]. Appellant timely filed his Step 1 grievance, which the Department "SCDC" denied. The Appellant then filed his timely Step 2 Grievance and was ultimately denied this credit by the South Carolina Administrative Law Court.

In the Adm. Law Court, SCDC essentially made two arguments

ONE

That the amendment is to be applied Prospectively and that Applicant is not entitled to this credit. If the Applicant should obtain this credit he should obtain a specific Court Order by a judge indicating this and;

two

That the **May** would indicate that the award of this credit is discretionary. and thereby no **Right** has been created. If awarded this credit the Appellant would have Maxed-Out on January 1 2017. This Appeal Follows...

JURISDICTION

The Appellant would contend that he received greater than 10 years (20 year Sentence) and due to the harm that would be caused if not **Granted** this bond. This Court does have jurisdiction in this Motion. However, if the Court Rules that it should have been raised in the South Carolina Supreme Court, to transfer this Motion to the Supreme Court. The Appellant would contend that he should be considered for bond with the stipulation of being placed on Monitored House Arrest.

SCACR 227 (j).

The Appellant would contend the following:

PROBABILITY OF PREVAILING ON APPEAL AND NATURE OF RELIEF Appellant would receive.

Considering this Courts recent ruling in both Fowler and Bolin and the evidentiary fact that others have already received this credit. There is a reasonable probability that Appellant will prevail as it relates to the relief sought. as discussed in the Initial Brief, with the credit allowance the Appellant would have went home January 1 2017. For an Appellant who has less than one year to Max-Out, who has served 17 years with no major disciplinaries and who has held a consistent job with high job marks, For a case, where others have already prevailed on similiar cases. Where the States arguments have already been rejected by the Court specifically the Retroactive Argument. In Author Fields, The State tried to argue that due to Mr. Fields serving his House Arrest before the enactment of the 2013 Bill's passage, that he should not receive his credit for time served on Monitored House Arrest, The Court rejected this argument by the State and granted Mr. Fields his credit for time served on Monitored House Arrest. (Anderson County)

THE SERIOUSNESS OF THE CRIMINAL OFFENSE COMMITTED.

As this cannot change. The Appellant has shown through his work and Disciplinary free of Major Disciplinaries his Status and propensity for change and a committment to it.

THE DANGER THE APPELLANT POSES IF RELEASED.

As a point of clarity, Appellant was placed on Monitored House Arrest in a neighborhood with families i.e. Women and Children for 17 months with complete compliance and no interruptions to the monitoring. If the Appellant was a dangerment, he would have re-offended and would not have been able to maintain for this 17 months.

In Short, The Appellant poses absolutely no danger to the Community.

THE LIKELIHOOD THAT APPELLANT MAY FLEE.

As stated above, The Appellant awaited trial for 17 months and could have fled if he so desired, However, he lived up to the committment and came on his own accord to trial. As stated before there was no interruptions of the House Arrest. Also, The Appellant owns a Home and Land in Florence County. The issue was previously considered when he was admitted bond prior to trial and that was decided in the Appellant's favor. due to his granting of bond. In Short, The Appellant has strong ties to the Community and would not flee. Futher, The Appellant wount futher submit to Monitored House as a stipulation of Appeals Bond.

CHARACTER AND CIRCUMSTANCE OF THE APPLICANT.

Prior to the Appellant's Conviction and sentence he served in the S.C. Army National Guard (263D) M1A1 Tank Division in Marion S.C., from 1991-92, our unit was activated and deployed in Operation Desert Storm. Appellant received an Honorable Discharge Appellant attended Clayton State College and was ultimately after Graduation employed as a Locomotive Engineer for CSXT Rail Road. As a matter of fact at the time of Arrest, Appellant was coming from work in Florence County at the Florence Terminal while going back to his truck after work. Appellant also worked for the High School Association as a Baseball Umpire. Appellant started a small business (Meggs Lawnscaaping/ Irrigation Co.) and was a member of Palmetto Street Church of God in Florence South Carolina.

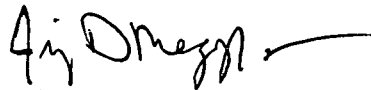
While Incarcerated Appellant has worked as an Inmate law Clerk, receiving training in that field. Appellant also took a Legal Assistance course and has used that to assist others trying to obtain legal recourse. Appellant has also, received training as a Paralegal Studies, Appellant has futher worked as a "TA" Teachers Assistant helping others obtain their G.E.D.

Lastly, For the past two years, I have Taught Life Skills and Economics in the C.B.U. Character Program. I have also, taken and completed Character I, Electrian I, Plumbing I, Mentor and Leadership, I have also, received 3500 hours of training s a teachers assistant from 2010 until 2015.

CONCLUSION

In All, the Appellant Prays that this Court Grant Appellant a Appeals Bond, with the Stipulations of being placed on Monitored House Arrest and based on the reasons mentioned herein. Or any other remedies that this Court deems just and proper.

RESPECTFULLY, SUBMITTING,



Jimmy D. Meggs Jr.

This 11th Day of May 2017.